

**REPORT and RECOMMENDATIONS
ON THE HUMANITARIAN CRISIS
IN « CAMP LIBERTY » (IRAQ)**

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Note of reference

After having served as Special Representative of the UN Secretary-General for Iraq (July 2009-September 2011) I have naturally continued to feel intensely involved with the fate and future of the people of Iraq. I am frequently asked to comment on political, economic, social and humanitarian developments and to contribute to policy debate and recommendations.

Among the many issues of concern the arbitrary detention¹ of the asylum seekers² in « Camp Liberty » stands out as a humanitarian urgency: intractable on the surface yet relatively solvable if political will and humanitarian compassion would prevail over political calculation and passivity.

As the end of the year 2014 is nearing the political environment in the region has changed dramatically following the incursion of « Islamic State of Iraq and the Levant » extremists into vast areas of Syria and Iraq. Concurrently the Iraqi parliamentary elections and subsequent changes of Prime Minister, President and Speaker positions have created potential openings for new initiative. Both factors are relevant for the prospects of the « Camp Liberty » residents. On the one hand there is serious concern for mass slaughter in the Camp if ISIL would have the chance to get even closer to Baghdad than they are to date; or by Shi'a militia who have publicly declared allegiance to Iran and are directed by Iran's Quds Force. On the other hand the reconstruction of national dialogue and cooperation after the polarized years under Maliki should create space for humanitarian initiative and constructive international cooperation.

Against this backdrop and on the basis of many conversations with key people involved inside and outside Iraq I have considered various aspects of the current pressing situation and have elaborated recommendations for action that might help to turn around a lose-lose status quo into a win-win humanitarian breakthrough.

Background

Among the many issues that I had to tackle during my mission in Iraq was the case of over 3000 Iranian exiles³ living in Camp Ashraf in the Diyala Province, since 1986. Ashraf residents, long before I went to Iraq, had been recognized by the US led Multi-National Forces in Iraq (MNF-I) as protected persons under the Fourth Geneva Convention. The US had pledged in writing to provide protection for them in return for handing over their weapons.

¹ As declared by the UN Working Group on Arbitrary Detention

² As declared by the UN High Commissioner for Refugees

³ Members of the People's Mujahedin Organization of Iran (PMOI) or Mujahedin-e Khalq (MEK)

In 2009 the US handed over the security of Camp Ashraf to the Government of Iraq, stating that Baghdad had assured the US Government to respect the rights of the residents and to treat them humanely.⁴

When I arrived in Baghdad in Summer 2009, the first deadly Iraqi armed attack on Ashraf had just occurred. The US at the time still had a considerable number of troops in Iraq and was the only party capable of securing the residents' protection. It was also the time when the US Government had just embarked on a policy of gradual drawdown and disengagement. In the process, it did not put in place a solution for the protection of the vulnerable residents. Given the security situation in Iraq, UNAMI was also very much relying on the USF-I for protection.

In order to signal international concern and attention I decided, in October 2009, to have started a weekly visit to Ashraf by the human rights team, which was helpful both in terms of a certain degree of protection, as it signaled to the Iraqis that Ashraf is on the international radar, and in building confidence with the residents by following up on their problems and grievances and by bridging their differences with Iraqi officials.

However a second deadly attack on Camp Ashraf occurred on April 8, 2011. There were early indications of a possible violent move by the Iraqis. While we were powerless military wise, UNAMI warned the diplomatic community and was in regular contact with the American embassy expressing our concern. The American platoon monitoring Ashraf was also concerned on the eve of the attack but was ordered to leave the area. 34 residents were killed and several dozens injured.

UNAMI, after getting delayed permission from the Iraqis, sent a delegation to Camp Ashraf on 13 April to verify the facts of the carnage that took place and reported the extent of the killing to the world.⁵

The events of April 2011 were an expression of fundamental changes in the political environment. Under Prime Minister Al Maliki Sunni politicians felt increasingly alienated, widening a major rift within the society. At the same time the US Forces were withdrawing on the basis of the Status of Forces Agreement to be completed by end of 2011. It was no coincidence that Al Maliki declared that Ashraf had to be closed by end of 2011, if necessary by force. This was a complex issue. The residents had been living there since 1986. They had built the entire camp with their own means and acquired certain rights under both Iraqi and international law. In addition, they feared that leaving Ashraf to other locations in Iraq would expose them to more danger.

⁴ US Embassy in Baghdad, 28 December 2008

⁵ For more details see "The United Nations and Human Rights in Iraq: The Untold Story of Camp Ashraf", Tahar Boumedra, 2013

The USF-I was expected to complete its withdrawal from Iraq by end of December. UNAMI, as the only remaining interlocutor of the GoI in relation to Ashraf, came under tremendous pressure to cooperate in closing the Camp. I considered it the task of UNAMI to help, as an impartial facilitator and with the support of the diplomatic community in Baghdad, to find a solution that would enable the residents to leave Iraq if and when provided asylum elsewhere. Any relocation inside Iraq seemed to be unnecessary as they could be resettled directly from Ashraf to outside Iraq. In addition, there was no viable plan for internal relocation, which in my view required that the new location would meet the necessary humanitarian conditions and above all would be safe for the residents. Thus, I did not want to commit to support for internal relocation when we did not have the viable plan.

However my successor in Iraq, faced with the same pressure, went along with an unconditional transfer to the new location, inappropriately called “Camp Liberty”. As a consequence the “problem” was relocated, not resolved. UNAMI signed a memorandum of understanding with the Government of Iraq for the relocation without consulting the residents. Under governmental pressure the Ashraf residents were presented with misleading information on the state of the new location, which was not readily prepared to accommodate them. They were told the maximum time they will remain in “Camp Liberty”, referred to as Temporal Transit Location (TTL) would be 6 months, while it was clear that this time frame was unrealistic. After the arrival of the first group of residents, they were shocked by the conditions in Camp “Liberty”. The right approach for UNAMI would have been to recognize the reality of the situation on the ground and to work with the residents and the Iraqi officials to improve the situation, rather than trying to justify the low standard conditions of the Camp or to blame the residents for “excessive” demands. The residents had shown in Ashraf their capability of turning a desert into a modern city. They could certainly have made “Liberty” a habitable place if only they had had access to services and utilities as stipulated in the MoU signed in December 2011. UNAMI’s action to ensure even-handedness between the different sides would have contributed to confidence building with the residents and to sending a clear message to the Government of Iraq about its obligations more than has been shown or known to date.

Importantly in 2012 the UN Working Group on Arbitrary Detention came to the conclusion that the “custody” of Camp residents is “arbitrary”, in violation of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.⁶ Particular concern was expressed that there is “no grievance mechanism or complaints procedure to address their conditions and (..) to challenge their detention in a court of law”. Unfortunately the Government of Iraq chose not to respond to the report.

⁶ Amongst other reports: Communication No. 32/2012 (Iraq)

The September 1st massacre of remaining residents in Ashraf, where 52 were slaughtered, was the most devastating attack on the refugees. The 100 residents had remained in Ashraf to protect their properties on the basis of agreement between all parties involved including the Government of Iraq, UNAMI and the US Government. They were assured that they could remain there until the property issue would have been settled.

Assessment of concerns

Given the urgency of the situation it seems not productive to be looking back on what could or should have been done differently. Rather it is important to take stock of what needs to happen now, without further delay.

First I would like to underscore the importance of the UN Secretary-General's decision to have appointed in January 2014 a "Special Adviser for Relocation of Camp Hurriya Residents Outside of Iraq" so as to enable a new balanced approach. This has also highlighted the concern that too few countries, with the notable exception of Albania, have opened their doors for the "Camp Liberty" asylum seekers. To date hardly any money appears to have come in into the specially created relocation fund; and countries remain reluctant to grant asylum status despite ongoing diplomatic efforts to prevent a humanitarian catastrophe.

Laudable as these efforts may be they unfortunately entail a serious downside in leaving the Government of Iraq unaccountable for the living and security conditions in "Camp Liberty".

There are many reasons to be concerned about the multitude of complaints and associated finger-pointing going on between different parties involved. I see it as my duty to merely take stock of issues, without prejudice, and with the aim to establish an understanding of the facts and, on that basis, to recommend action to improve the situation as long as relocation outside Iraq has not yet been completed.

1st concern: Medical treatment

Over the past period recurrent issues have been brought to the attention of the Government and of UNAMI that involve patients needing medical treatment outside the camp, accompanied by trusted and reliable interpreters. Without entering into the details of each and every situation I have no doubt we see a pattern of attitudes varying between lack of interest and deliberate provocation – for no benefit to anyone and more and more to the detriment of the residents the longer it takes. This could be easily resolved. The international community, including the UN through UNAMI and UNHCR should not accept restrictions to residents' free and unhindered access to essential medical care.

2nd concern: Policing

Whilst it is undisputed that the Government is entitled to have its police force present there are too many indications of unnecessary manifestation of power or intrusive acts and restrictions. This is all about conduct and about neutrality and in that sense contributing to decent living conditions for people that do not pose any threat whatsoever to their surroundings. These issues need to be fairly brought to the attention of all relevant actors seeking actions to resolve them.

3rd concern: Camp infrastructure and provisions

Grid connectivity, fuel for generators and equipment for transport and lifting of goods are among the revolving issues that should have been settled from the outset. Unpredictability and arbitrariness prevail over clear procedural protocols that would help diminish concerns and suspicions at both sides.

4th concern: Intimidation

There are recent indications that Teheran is planning to organize “family visits” to encourage the residents to return to Iran. This suggests that the unacceptable practices of pressuring Camp residents with visits by so called but often not identified family members and appeals via huge loudspeakers (as used to be the case during a long period in Camp Ashraf) could be resumed. This goes against any internationally established principle of treatment of, in particular, asylum seekers waiting for their interviews or exit. UNHCR and UNAMI are in the position to take all necessary steps to prevent the recurrence of the past.

5th concern: Consultations with Government of Iran representatives

Residents have repeatedly expressed concerns about interactions between UN representatives and Iranian officials regarding the future of the Camp and its residents. Whilst generally there is a normal exchange of information and views between UN staff and the member state Iran it is very important that a line is drawn where undoubtedly the fate of the residents is at stake, given Teheran’s thirty five years of uncompromising persecutive action and also with the recent general surge of executions in Iran in mind.⁷ Furthermore, under international refugee laws it is strictly prohibited to share information of asylum seekers with the country of origin where they fear persecution including among others possible torture and even execution. It is crucial that the UN is fully transparent in upholding this essential principle. It should not remain silent after names of asylum seekers appeared in media reports following a recent visit to Teheran by the Secretary-General’s Special Adviser for Relocation. It is a matter of grave concern that lists of names of the refugees that had been communicated between the residents, UNHCR and the Government of Iraq for resettlement outside Iraq, have recently appeared in websites affiliated with the Ministry of Intelligence and Security of Iran. This is a clear breach of international law and obligations by the involved parties.

⁷ As documented by, inter alia, Amnesty International

6th concern: Impartial reporting

It is an important role for UNAMI to report and to be seen as reporting fairly and impartially on all relevant developments in and around Camp Liberty (as part of its task to keep the international community informed on the evolving situation in Iraq generally). Without judging the quality of the reporting it should be noted that different sources regularly provide considerably different accounts of Camp issues. Human rights experts have expressed serious criticism both on factual aspects and on departing from the UN guidelines for public reporting on human rights. To the extent that there are indeed reasons to dispute reporting under the responsibility of the UN Secretary-General this is detrimental to the UN's reputation and counterproductive in engaging the international community in search of a permanent solution. It should be expected from any UN agency to be a facilitator and honest broker between all parties concerned, right or wrong as they are measured against universal principles of fundamental human rights. While a UN delegation in a sovereign country is naturally faced with limitations and pressures, transparency and fairness should prevail in the fundamentally impartial way the UN should act.

7th concern: clarification of UN roles

My own experience makes me all too aware of the complexity of the UN System's operation in Iraq, with different agencies having to pursue their missions in a highly sensitive context. However there is a crucial difference between the specific mandate of the political UNAMI mission, as defined and regularly reviewed by the Security Council, and the universal mandate of specialized agencies. I remember Prime Minister Maliki regularly underscoring that under the resolutions since 2007 UNAMI was to operate "at the request" of the Government of Iraq. Given this mandate it was a welcome move when UNHCR as a specialized agency with its own unique mandate, declared "Liberty" residents as "people of international concern" under international law. This should have been the basis for UNHCR to ensure the residents' rights to have access to goods, services and medical care by declaring "Liberty" as a refugee Camp, to be protected from any form of harassment and attacks. However it has been UNAMI that continued to assume primary responsibility in monitoring the situation on the ground. This has inevitably become entangled with broader political considerations and interests that tend to supersede the primacy of humanitarian concerns.

Also the UN should seriously consider how to bring to the stage of accountability the extrajudicial killings and abductions in attacks perpetrated against both Camp Ashraf and Camp "Liberty" during the period 2009-2013, particularly the massacre that took place in Camp Ashraf on 1 September 2013. Despite the repeated calls of UNAMI, the High Commissioner for Human Rights and the international community for an independent and impartial inquiry into such killings and disappearances, no credible action has been taken by the Government of Iraq to date. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions is in the position to launch an investigation.

Recommendations for action

It is high time to break the impasse. The Governments of Iraq, the US, the EU member states and other states involved have been looking too long at each other and too little at their own capacities to address the humanitarian plight of several thousands of people without security or future prospect. As a consequence the UN role tends to be reduced to being bystander instead of driver of change and above all protagonist and protector of fundamental human rights.

The following immediate steps could contribute to break the impasse:

1. The US, EU member states and other members of the UN “Western European and Others Group (WEOG)” should – in support of the mandate of the Secretary-General’s Special Adviser and the findings of the UN Working Group on Arbitrary Detention – come forward with offering (via UNHCR) **quota** for granting asylum and pledge **funds** for the re-settlement of “Camp Liberty” residents.
2. UNAMI should convene the international diplomatic community in support of a UNHCR initiative to engage the Government of Iraq on the status of “Camp Liberty” as a **refugee camp** under protection of international law; and to encourage the Government of Iraq to present this commitment to the UN Working Group on Arbitrary Detention in response to its critical reports.
3. The Government of Iraq should replace its “Ashraf Committee” (overseeing the day to day business in and around the Camp) by an impartial “**Mixed Committee**” consisting of an equal number of representatives of key ministries and international representatives agreed upon by both the Government and the Camp Liberty residents. This Committee should oversee the implementation of the Memorandum of Understanding of 25 December 2011, including free access to goods and services through contractors; and also serve to provide the residents with a grievance mechanism or complaints procedure. This should enable and encourage the residents to take part in the regular Camp management meetings so as to ensure their involvement in the day-to-day running of the place.
4. UNAMI should appoint two impartial **liaison officers** that, on an alternate basis, would reside in the Camp, participate in the meetings of the Mixed Committee (under point 3) and report independently on the situation in the Camp as a publicly available input into the regular reporting to the UN Security Council via the Secretary-General. They should also be mandated to protect and sell, as agreed in the above Memorandum, the movable and immovable residents’ properties in Ashraf.
5. The Government of Iraq should ensure **access to medical services**, as necessary and in the appropriate hospitals, without restriction on the basis of a **protocol** to be agreed with and monitored by UNAMI and the US Embassy, including the provision of reliable interpretation services.
6. The Government of Iraq should ensure that the Camp (located near the Airport) be connected without delay to the city **electricity grid**.

Conclusion

I have heard voices whispering that the “Camp Liberty” issues are the least of all the concerns regarding Iraq. This may be understandable given the magnitude of the challenges the state and the people are faced with. However it is shortsighted to miss out the clear opportunity of this particular moment. The change of Government in Iraq should encourage all sides to turn the page and start a new chapter. The international community should see the window that is now more open than ever to solve a seemingly intractable problem – before the window might close again.

Hardly has a humanitarian issue been politicized as this one. Yet already for many years the victims are not the players. It is essential for the international community to understand this and thus consider it a duty to intervene in defense of international law and human rights, regardless of political interests or bias.

This, therefore, should be the moment for governments and lawmakers to step up and let reason and compassion prevail.